

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

JASON LEE STOCKSTILL

PLAINTIFF

v.

CAUSE NO. 1:16CV47-LG-RHW

**PEARL RIVER COUNTY 5TH
DISTRICT S.E. COURTS JUSTICE, ET AL.**

DEFENDANTS

ORDER OF DISMISSAL WITHOUT PREJUDICE

This matter is before the Court sua sponte. After consideration of the record in this case and relevant legal authorities, and for the reasons discussed below, the Court finds that this civil action should be dismissed without prejudice.

I. BACKGROUND

Pro se Plaintiff Jason Lee Stockstill initiated this action on February 16, 2016, while he was incarcerated in the Pearl River County Jail, Poplarville, Mississippi. Compl. [1] at 1. The Court entered an Order [14] on June 1, 2016, directing Plaintiff to provide additional information concerning his claim against Defendant Allison. That Order [14] also directed Plaintiff to state his current address where he may receive mail from the Court. The Clerk was ordered to mail Court documents to Plaintiff at a different address he provided on page two of his Complaint than the address of record, *see* Plaintiff's Change of Address [10]. Order [14] at 2. Plaintiff was required to comply on or before June 16, 2016, with the Order [14] entered on June 1, 2016. According to the records, the envelope addressed to Plaintiff at his address of record was returned by the postal service with a notation "Return to Sender - Not Deliverable as Addressed - Unable to Forward." *See* Mail Returned [15]. However, the envelope addressed to Plaintiff at 5302 Firefly Ln., Everton, AR 72633 has not been returned by the Postal Service. Moreover, Plaintiff did not comply and did not

communicate with the Court even though he was warned that failure to do so could result in the dismissal of this case. The Court then entered an Order [16] to Show Cause on July 1, 2016, directing Plaintiff to file a response on or before July 19, 2016. Once again, the Court directed copies of the Orders [14, 16] were to be mailed to Plaintiff at his address of record as well as the other address provided in his Complaint [1]. According to the records, the envelope addressed to Plaintiff at his address of record was returned by the postal service with a notation “Return to Sender - Not Deliverable as Addressed - Unable to Forward” and a hand-written note by an unknown writer stating “Return to Sender Wrong Address!” *See Mail Returned [17]*. However, the envelope addressed to Plaintiff at 5302 Firefly Ln., Everton, AR 72633 has not been returned by the Postal Service. When Plaintiff did not comply with the Order [16] nor communicate with the Court, even though he was warned that failure to do so could result in the dismissal of this case, a Second and Final Order to Show Cause [18] was entered on August 4, 2016.

The Second and Final Order to Show Cause [18] directed Plaintiff to file a response on or before August 19, 2016. Plaintiff was warned that his failure to comply with that Order [18] would result in the dismissal of the case. The Court directed that a copy of the Second and Final Order to Show Cause [18] and a copy of Orders [14, 16] be mailed to Plaintiff at his address of record as well as the other address provided in his Complaint [1]. According to the records, the envelope addressed to Plaintiff at his address of record was returned by the postal service with a notation “Return to Sender - Not Deliverable as Addressed - Unable to Forward.” *See Mail Returned [19]*. The

returned envelope also included a hand-written note by an unknown writer stating: “No longer at this address. To get new address for this person, call 870 204 1808. Please stop sending his mail here!” *Id.* Plaintiff is responsible for providing a current address. The Court informed Plaintiff in the Notice of Assignment and Orders [3, 4, 9, 14, 16, 18] entered in this matter that he was required to comply with the Orders of the Court and to provide a change of address. Clearly, Plaintiff was aware of his responsibility to inform the Court of a change of address when he filed his change of address [10] on March 31, 2016. Moreover, the envelope addressed to Plaintiff at 5302 Firefly Ln., Everton, AR 72633, the other address Plaintiff provided in his Complaint [1], has not been returned by the Postal Service.

II. DISCUSSION

This Court has the authority to dismiss an action for Plaintiff’s failure to prosecute under Federal Rule of Civil Procedure 41(b), and under its inherent authority to dismiss the action *sua sponte*. *See Link v. Wabash Railroad*, 370 U.S. 626, 630-31 (1962); *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988). The Court must be able to clear its calendars of cases that remain dormant because of the inaction or dilatoriness of the parties seeking relief, so as to achieve the orderly and expeditious disposition of cases. *Link*, 370 U.S. at 630. Such a “sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars” of the Court. *Id.* at 630-31.

Plaintiff did not comply with three Court Orders even after being warned several times that failing to do so might result in the dismissal of his lawsuit. Order [3] at 2; Order [4] at 2; Order [9] at 2; Order [14] at 2; Order [16] at 2; Order [18] at 2.

Plaintiff has not informed the Court of his current address. Plaintiff has not contacted the Court since April 1, 2016. Such inaction presents a clear record of delay or contumacious conduct by Plaintiff. It is apparent to the Court that Plaintiff no longer wishes to pursue this lawsuit. As the record demonstrates, lesser sanctions than dismissal have not prompted “diligent prosecution” but instead such efforts have proven futile. *See Tello v. Comm'r*, 410 F.3d 743, 744 (5th Cir. 2005). Dismissal without prejudice is warranted.

III. CONCLUSION

For the reasons stated herein, this civil action will be dismissed without prejudice. Accordingly, it is

ORDERED AND ADJUDGED that, for the reasons stated above, this civil action is **DISMISSED WITHOUT PREJUDICE** for failure to obey the Court’s Orders and to prosecute.

IT IS FURTHER ORDERED AND ADJUDGED that a separate final judgment will be entered pursuant to Federal Rule of Civil Procedure 58.

IT IS FURTHER ORDERED AND ADJUDGED that the Clerk mail to Plaintiff Jason Lee Stockstill a copy of this Order of Dismissal to **Jason Lee Stockstill, 5302 Firefly Ln., Everton, AR 72633**, *see* Compl. [1] at 2, and to **Jason Lee Stockstill** at his address of record.

SO ORDERED AND ADJUDGED this the 15th day of September, 2016.

s/ Louis Guirola, Jr.
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE